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UNITED STATES
HOUSE OF REPRESENTATIVES

November 23, 1999

Winter Use Plan
National Park Service
12795 West Alameda Parkway
Lakewood, CO 80228
Attention: Clifford Hawkes

Dear Mr. Hawkes:

Thank you for the opportunity to comment on the Winter Use Plan and Draft Environmental Impact Statement for the Yellowstone and Grand Teton National Parks and John D. Rockefeller, Jr., Memorial Parkway. I believe all Americans want to see our national parks managed in a way that protects the resources we value. But I also believe they want to continue to have access to those parks to enjoy the scenery and the wildlife. In the case of Yellowstone, that has included the use of snowmobiles to access the park in the winter season. I support continued snowmobile access to Yellowstone and the unique winter experience it provides for visitors from all over the world.

I had hoped this NEPA process, although complicated by the court's involvement, would provide an opportunity to evaluate how the public can continue to enjoy access while better protecting park resources. The purpose of NEPA is not to generate a document, but to produce responsible action on the ground. NEPA requires that the agency make informed decisions based on a clear and factual presentation of the impacts. The agency must also make diligent efforts to involve the public in their NEPA procedures. That includes listening to the public's concerns early in the process and providing the public with a well-reasoned document upon which to comment. In this instance, where the proposed action has impacts to the environment that are interrelated to social or economic impacts, all those impacts must appear in the NEPA document.

I was encouraged when the affected states and surrounding counties were granted cooperating status because they were in a position to both better inform the agency and enhance public participation by bringing key information to the process, particularly regarding economic and social impacts. Unfortunately, it seems the process to date, as embodied in this document, largely ignores the concerns of the cooperators and fails to meet the NEPA compliance test of taking into account all relevant information.

For example, earlier this year the agency missed deadlines for providing draft alternatives to the cooperators for review and input and failed to inform them in a timely manner as to the nature of the preferred alternative. The alternatives were delivered without advance notice on April 22, 1999 with a request to return comments by May 24, 1999. Subsequent requests by members of

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the Congressional delegation to allow more time for response were denied by Park officials, who cited the pressing nature of the court-imposed deadlines. Unfortunately, the Park Service itself did not itself show good faith in meeting those deadlines as represented by their earlier actions.

As such, the cooperators' role, as well as the NEPA process, was compromised by the inadequate time for review and analysis, thereby denying the agency information that was critical to evaluating the economic and social impacts of the proposed alternatives. Most obvious is the fact that, while only the surrounding counties were granted cooperating status, the Park Service's economic analysis of the preferred alternative dispersed impacts over a much larger geographic area and, in effect, minimized the impact on the very entities it had earlier identified as having the greatest interest in this process. Without adequate time allowed, cooperators were made responsible for analyzing local economic impacts for a preferred alternative about which they were not even consulted in earlier discussions. Ultimately that resulted in a draft document now out for public comment that contains discrepancies in the information about the economic and social impacts of the various alternatives.

The document is also unclear as to the purpose and need for the proposed action. In this instance, the DEIS defines the problem by referring to the difference between existing and desired conditions without making a case for why such an abrupt change in current management is necessary or warranted. That is a key concern when activities allowed under current management have been sanctioned in the past by the very entity that now arbitrarily seeks their elimination. While the document identifies peripheral issues, such as concerns with snowmobile emissions and sound, none of the documentation points to a problem of such magnitude as to justify the preferred alternative, particularly one with such significant economic impacts to local communities. These impacts are not only felt by the business community, but also by local governments who may have to cut back on services as well as by local citizens who are going to see taxes increase at the same time economic opportunity decreases.

Furthermore, achieving the "desired condition" refers to the need for cooperative work between the National Park Service and other interests. To quote, "these desired conditions should be facilitated by cooperative work between the NPS, other agencies, local and regional governments, communities, concessions, commercial operations, and the equipment manufacturing industry." Yet none of the alternatives truly offers such a cooperative approach, and most certainly not the preferred alternative. In sum, NPS has simply offered a desired condition to be met, rather than determining an actual need for the proposed action. That glaring inadequacy is compounded by NPS's failure to provide an alternative that achieves the desired outcome. In fact, the experience cooperating entities have had to date with this process would suggest NPS may give lip service to seeking cooperation, but it is a hollow commitment on their part. It is that apparent disdain for the role of cooperators and the expertise they bring to this process that has produced such a flawed document.

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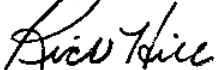
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However, since the DEIS is the only document we have before us today for purposes of comment, I wish to go on record in opposition to the preferred Alternative B that calls for plowing the road from West Yellowstone to Old Faithful. Not only has the NPS failed to justify the need for this alternative, the agency has failed to adequately evaluate the impact on surrounding communities, on visitors, and on the physical and natural environment.

I do support efforts to address the concerns that have been raised with regard to the issues of winter use. However, I believe those concerns can be answered by modifications to Alternative E, similar to those proposed by the surrounding counties in conjunction with other interested parties. That approach emphasizes the protection of wildlife and other natural resources while allowing park visitors access to a range of winter recreation opportunities. It incorporates an adaptive planning approach that gives the agency flexibility in incorporating new information and technology while drawing on local expertise and input through creation of an advisory committee in compliance with the Federal Advisory Committee Act. Although I still have concerns about the DEIS in general, and the manner in which the cooperating entities have been treated, a modified Alternative E can realize NEPA's purpose to foster "excellent action" on the ground if the revisions proposed by the counties, snowmobile interests and local communities are incorporated.

Thank you for considering my comments. If you have any questions, please don't hesitate to let me know.

Sincerely,



Rick Hill
U.S. Congressman

RH/pt

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Page 1. Re: Affected states and surrounding counties. There is a desire on the part of NPS to cooperate. The effectiveness of the process used in this EIS relative to cooperating agencies is subject to debate, especially given the short time frames. Early on, NPS intended to invite the three states surrounding the parks to participate as cooperating agencies in developing the EIS. NPS believed the states could provide information on impacts to natural resources and local and regional economies. Without consulting with NPS, CEQ opined to a Wyoming Senator that counties also should act as cooperating agencies in this process. Thus NPS was faced with working with nine cooperating agencies, several of which had never before participated in a NEPA process as cooperators. Due to the schedule set by the settlement agreement, NPS had little time to work with cooperating agencies on what was expected of them in that role. This includes disagreements about the nature of special expertise in the NEPA process, and the burden of the cooperator in providing it. As a result, the cooperators often acted as though the relationship was one where the NPS was to provide information to them, instead of the reverse. NPS notes that Mr. Paul Kruse, designated representative for cooperating counties, states in his letter that the counties provided detailed socio-economic analysis and that NPS allegedly ignored the input. It is clear that roles and expectations in the process were, and are, not well understood, despite the cooperating agreements that were negotiated and signed.

NPS has considered or used all information provided by cooperating agencies. The characterization of the socioeconomic environment specifically cites information from the cooperators or their consultants. It may not have been clear in the DEIS how all the information was used, so the final EIS will cite all cooperating agency materials. On pages 298 through 315, the DEIS discloses the impacts of each alternative on adjacent lands in the cooperating agencies' own terms.

The cooperating counties attested in the agreements that they would provide special expertise in the areas of social and economic analysis. This analysis was to be applied to the range of alternatives, not just the preferred. The designation of a preferred alternative in a DEIS is peripheral to the process, since the final decision must choose from the full range of alternatives presented in the EIS, with their consequences (§1502.14(e) and §1505.2(b)). Cooperating agencies had information about the range of alternatives, including the eventual preferred alternative, with time in which to develop economic analyses sufficient for this programmatic assessment. NPS reiterates that the inexperience of cooperators in performing such a NEPA analysis, along with the short time frame, unfortunately led to the current state of affairs.

Page 2. Re: Economic assessment using 17 counties. It was the judgment of the economic consultant used by NPS that the 3-state area and the 17-county area were sufficient to answer the question about impacts on the regional economy. Considering the issues raised by local governments, NPS agrees it is appropriate to focus on the 5-county area containing gateway communities to the parks. The economic model will be re-run on this level. Input-output models that are available for performing this type of analysis are appropriate only for economies at the county and regional levels. Impacts on communities is within the purview of the state and local cooperating agencies and their stated special expertise. By and large, none of the cooperators provided specific effects on communities for each alternative. Most focused only on the effects of the plowed road from West Yellowstone to Old Faithful in preferred alternative B insofar as it would affect West Yellowstone. This is only one part of one alternative, whereas the eventual decision must consider the full range of effects for all alternatives.

Page 2. Re: Purpose and need. This comment reflects the sentiment from a number of snowmobile interest groups that there is really no problem with the current use in the 3 park units. There are identified gaps between existing conditions and desired conditions, and they form the basis for the purpose and need for action. The underlying purpose (§1502.13), or goal to be achieved as stated at the scoping stage is to provide a full range of quality winter experiences offered in appropriate settings and having no significant adverse impacts on park values. This purpose is represented by the desired condition shown on page 3 of the DEIS. The underlying need (§1502.13) is defined by the existing conditions expressed on page 4, with detailed expansion in Chapter III, Affected Environment. Despite the complexities introduced by multiple goals and multiple issues, the alternatives in Chapter II represent possible actions that meet the underlying purpose and need. The range of alternatives is sensitive to the need for people, businesses and local governments to adapt to change. Most

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alternatives do not represent wholesale, abrupt changes, and some features of some alternatives do not apply for seven or eight years. Adaptive management, as expressed in alternative E represents a programmatic status quo, except that focused study over time may result in management changes.

The commenter states that the treatment of existing versus desired condition, and issues pertaining thereto, are peripheral. NPS and many people who commented during the scoping process and on the DEIS disagree with this assessment of the issues.

Page 2. Re: Effects on business community and local government. See response above. This statement is a reaction to a portion of the preferred alternative. Not all alternatives, nor pieces of preferred alternatives would impact all local businesses in all gateway communities. As a side note, NPS must be sensitive to the effects of management on local communities. However, when there is an identified conflict between local economies and the protection of park values, park values must be emphasized.

Page 2. Re: The Park Service's lip service to cooperation. The premise for "cooperation" as stated in the purpose and need section is that implementing or achieving desired conditions of a program is facilitated by both NPS and local government, communities and user groups. This cooperation is to be distinguished from the series of statements regarding desired condition of parklands and opportunities for use of those lands. The premise for "cooperation" in regard to the involvement of cooperating agencies in this EIS is that those agencies have the responsibility to provide data concurrent with their identified special expertise (§1501.6 (b) and §1508.26). To state that the measure of cooperation is for NPS to select an alternative that the cooperating agencies or local governments (and businesses) like is beyond NPS understanding of cooperation in either context.

NPS has been clear about its decision-making authority throughout the process. The cooperating agencies have concurred that the final decision lies with the park service. CEQ Regulations do not stipulate the rationale for selecting a preferred alternative in an EIS. It stipulates that in a final EIS, a preferred alternative must be identified. The statement of preference for one or more alternatives in a DEIS is discretionary, depending upon whether the agency has a preference at that point (§1502.14(e)). The identification of a preferred alternative in a DEIS should be regarded as extremely tenuous, and it is not a factor by which the validity of an EIS is gauged. Therefore, NPS disagrees that the document is flawed. NPS has identified the purpose and need for action, has developed a full range of alternatives to address the need and the public's issues, and has disclosed the effects of those alternatives all in accordance with the CEQ regulations for an EIS.

Page 3. Re: Objection to alternative B. Under CEQ regulations, NPS is not required to justify the designation of a preferred alternative. It is required to explain the rationale for an alternative that is eventually selected and announced in a record of decision following the publication of an FEIS.

Expressions of support and opposition relate to the decision that the commenter would like to see NPS make. The general response to such comments is that the commenter's opinions will be considered in making the final decision, but there is nothing in those opinions that substantively would alter the range of alternative features to be evaluated in the Final EIS. To illustrate, if the features not supported were to be deleted from the range of alternatives then the analysis would be left only with features that the commenter agrees with. If only the actions that are liked by the commenter remain, then there is effectively only one alternative.

Page 3. Re: Support for Revised Alternative E. Revised Alternative E comes from cooperating agencies and the Blue Ribbon Coalition in a variety of forms. The essentials of Revised Alternative E, all versions considered, are not significantly different from alternative E as presented in the DEIS, especially considering the programmatic nature of the proposed action. See the matrix comparison of Revised Alternative E versus the features analyzed in the range of alternatives. This may be found in FEIS Chapter I in the section "Alternatives Suggested During the Public Comment Period." All alternatives in the DEIS meet the purpose and need for action to a greater or lesser degree.